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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,654	03/15/2001	Richard M. Shelton	10281US01 (EKC 90087)	5761

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EXAMINER	
BASEHOAR, ADAM L	

ART UNIT	PAPER NUMBER
2178	

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/809,654	SHELTON, RICHARD M.	
	Examiner	Art Unit	
	Adam L. Basehoar	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-49* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-49* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to communications: The Amendment filed 09/23/05.

2. Claims 47-49 have been added as necessitated by Amendment.

3. Claims 1-8, 15-23, 30-39, and 46 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Hill et al (US: 6,023,714 02/08/00) in view of Gormish (US-5,910,796 06/08/99).

4. Claims 9-14, 24-29, and 40-45 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Hill et al (US: 6,023,714 02/08/00) in view of Gormish (US-5,910,796 06/08/99) in further view of Bernard et al (WO 00/29935 05/25/00).

5. Claims 1-49 are pending in the case. Claims 1, 16, and 31 are independent claims.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-8, 15-23, 30-39, and 46-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill et al (US: 6,023,714 02/08/00) in view of Gormish (US-5,910,796 06/08/99).

-In regard to independent claims 1, 16, and 31 Hill et al teach a method and computer readable medium for formulating a text file (style sheet)(Fig. 2: 214a-n) containing color

commands (color properties)(column 8, lines 20-25) for presentation of objects (document content)(column 2, lines 28-32) within a web page (Fig. 2: 210) based on a color response (characteristics and capabilities)(column 9, lines 23-31) of a display device (Fig. 2: 200) associated with a client (Fig. 2: 204) on a computer network (Fig. 2); and communicating the text file via the computer network (column 2-3: Summary of Invention).

Hill et al do not teach wherein the color response included information relating to an actual gamma determined for the display device. Gormish teaches determining the color response of a display device (column 2, lines 29-31: "display device") which includes information relating to the devices actual gamma (column 1, lines 48-61; column 5, lines 52-67; column 6; column 7 lines 1-23)(Fig. 6). It would have been obvious to one of ordinary skill in the art at the time of the invention for the color response of Hill et al (column 9, lines 23-31) to have included information relating to the actual gamma of the display device, because Gormish teaches that a display devices gamma determination and correction was essential for the accurate display of images (column 1, lines 26-32: "For many applications....crucial for such applications").

-In regard to dependent claims 2, 17 and 35, Hill et al teach specifying a color value (column 8, lines 20-25; Abstract) in the text file (column 7, lines 5-16) based on the color response of the display device (column 9, lines 24-33).

-In regard to dependent claims 3, 18 and 36, Hill et al teach communicating the web page to the client (Fig. 2); and setting a color of an object in the page based on the color value in the text file (column 7, lines 5-15).

-In regard to dependent claims 4,19, and 37, Hill et al teach setting a text and background color properties (column 4, lines 12-14).

-In regard to dependent claims 5 and 20, Hill et al teach setting the color of an image tagged (<IMG>)(column 6, lines 37-45) in the web page (Fig. 2: 210) based on the color response (characteristics and capabilities: specifically color palette and resolution) of the display device (column 9, lines 23-31); and communicating the tagged image to the client (column 2-3: Summary of Invention).

-In regard to dependent claims 6, and 21, Hill et al teach generating a color profile based on the color response of the display device (equivalent to the result of interrogating the output device to determine its characteristics and capabilities)(column 3, lines 9-20); formulating the text file based on the profile (column 3, lines 16-17); and setting the color of the image (<IMG>)(column 6, lines 37-45) based on the profile (color palette and resolution)(column 9, lines 23-31).

-In regard to dependent claims 15, 30, and 46, Hill et al teach communicating web pages to multiple clients on a computer network (column 2, lines 15-24); and formulating customized

text files (style sheets)(Fig. 2: 214a-n) for the web pages (document content)(Fig. 2: 210) based on the color responses (color palette and resolution)(column 9, lines 23-31) of display devices associated with each particular client.

-In regard to dependent claims 7 and 22, Hill et al teach communicating the web page from a first server (Fig. 2: 208 & 210); and communicating a tagged image with the document content (column 6, lines 37-42) identified by its unique network address (i.e."URL"). Hill et al do not specifically teach wherein the tagged image was located on a second server. It would have been obvious to one of ordinary skill in the art at the time of the invention for the above mentioned processes of Hill et al, performed on a single server, to have been distributed over two or three servers because it was notoriously well known in the art that client/server networked architecture could be performed on more than one server wherein the advantage was in distributing the processing load required to process the client requests. An additional well-known benefit to the use of multiple severs was that increased data storage capacity.

-In regard to dependent claims 8, 23 and 32, Hill et al teach communicating the web page from a first server (Fig. 2: 208 & 210); and communicating the text file (style sheet) from the same server (Fig. 2: 214a-n). Hill et al do not specifically teach wherein the text file (style sheet) was located on a second server. It would have been obvious to one of ordinary skill in the art at the time of the invention for the above mentioned processes of Hill et al performed on a single server to have been distributed over two or three servers, because it was notoriously well known in the art that client/server networked architecture could be performed on more than one server

wherein the advantage was in distributing the processing load required to process the client requests. An additional well-known benefit to the use of multiple severs was that increased data storage capacity.

-In regard to dependent claims 33-34, Hill et al teach wherein the color correction module runs on the first server (Fig. 5: 506). Hill et al do not teach wherein the color correction module was run on the second or the third server. It would have been obvious to one of ordinary skill in the art at the time of the invention for the above mentioned processes of Hill et al performed on a single server to have been distributed over two or three servers, because it was notoriously well known in the art that client/server networked architecture could be performed on more than one server wherein the advantage was in distributing the processing load required to process the client requests. An additional well-known benefit to the use of multiple severs was that increased data storage capacity.

-In regard to dependent claim 38, Hill et al teach a server (Fig. 2: 208) that sends the web page (Fig. 2: 210) to the client (Fig. 2: 204); wherein the server sends an image tagged in the web page (<IMG>)(column 6, lines 37-45), wherein the color correction module sets a color of the image based on the color response (characteristics and capabilities) of the display device (column 9, lines 23-31). Hill et al do not specifically teach wherein the tagged image was located on a second server. It would have been obvious to one of ordinary skill in the art at the time of the invention for the above mentioned processes of Hill et al, performed on a single server, to have been distributed over two or three servers because it was notoriously well known in the art

that client/server networked architecture could be performed on more than one server wherein the advantage was in distributing the processing load required to process the client requests. An additional well-known benefit to the use of multiple severs was that increased data storage capacity.

-In regard to dependent claim 39, Hill et al teach generating a color profile based on the color response of the display device (equivalent to the result of interrogating the output device to determine its characteristics and capabilities)(column 3, lines 9-20); formulating the text file based on the profile (column 3, lines 16-17); and setting the color of the image (<IMG>)(column 6, lines 37-45) based on the profile (color palette and resolution)(column 9, lines 23-31).

-In regard to dependent claims 47-49, Hill teaches wherein the objects include text (column 6, line 5; column 7, lines 5-16). Hill et al also teach wherein the text file (i.e. style sheets) typically define format values for the format properties of the elements of the document including color properties (column 2, lines 40-46). Hill et al further teach wherein said document could include a plurality of different elements (column 6, lines 9-44: e.g. <BODY>, <P>, <H>). Hill et al do not specifically teach wherein the HTML elements included in the document to be displayed were tables and boxes. It would have been obvious to one of ordinary skill in the art at the time of the invention for the HTML elements of Hill et al to have included table and boxes, because it was notoriously well known in the art at the time of the invention for HTML documents to have included both tables and boxes as different techniques for displaying the contents of a document.

8. Claims 9-14, 24-29, and 40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill et al (US: 6,023,714 02/08/00) in view of Gormish (US-5,910,796 06/08/99) in further view of Bernard et al (WO 00/29935 05/25/00).

-In regard to dependent claims 9-10, 24-25, and 40-41, Hill et al teach characterizing the color response of the client display device by having the server interrogate the client device (Fig. 5: 506)(column 9, lines 23-31). Hill et al do not teach guiding the client through a color profiling process by delivering one or more color profiling web pages to the client. Bernard et al teach remotely characterizing the capabilities of the client output device by guiding the user through a color profiling process by delivering one or more color profiling web images (equivalent to web pages)(Remote Characterization: pp. 15-17). It would have been obvious to one of ordinary skill in the art at the time of the invention for Hill et al to have involved the user in the color profiling process as taught in Bernard et al, because Bernard et al teach that having optimal user display settings, which can best be determined by the user, would have increased user confidence for online purchases knowing that the viewed image was an accurate depiction of the product (pp. 6 & 7, lines 31-32 & 1-2).

-In regard to dependent claims 11-13, 26-28, and 42-44, Hill et al teach the web server interrogating the client display device to determine the characteristics and capabilities of the display device in order to communicate an appropriate text file (style sheet) (Fig. 5: 506)(column 9, lines 23-31). Hill et al do not teach wherein a web cookie was used to store information pertaining to the characteristics and capabilities of the client device and communicating said

cookie to the server so that the server could select an appropriate text file (style sheet) for the client. Bernard et al teach sending a web cookie storing user display calibration and characterization data to a web server so that an appropriate text file (color corrected version of an image) could be selected based on the cookie data and communicated to the user (pp. 8, lines 7-19). It would have been obvious to one of ordinary skill in the art at the time of the invention, for Hill et al to have used the cookie feature to store persistent display device data as shown in Bernard et al, because Bernard et al teach that using cookies was a well known technique to provide personal settings or information specific to the user without requiring a server to store information for all of its users (pp. 8, lines 16-19). In addition it would have been well known in the art at the time of the invention, that using web cookies to store the display characteristics of Hill et al would have reduced processing time for users that requested multiple web pages because the display device of the user would not have to be interrogated by the server on each subsequent page request.

-In regard to dependent claims 14 and 29, Hill et al, as shown above, teach communicating the web page to the client from a first server; storing the text file (style sheet) and the tagged image (<IMG> tag) on the first server; communicating the tagged image to the client from the server. Hill et al do not teach storing the text file and tagged image data on a second server or communicating the above mentioned color profiling web pages from a third server. It would have been obvious to one of ordinary skill in the art at the time of the invention for the above mentioned processes of Hill et al performed on a single server to have been distributed over two or three servers, because it was notoriously well known in the art that

client/server networked architecture could be performed on more than one server wherein the advantage was in distributing the processing load required to process the client requests. An additional well-known benefit to the use of multiple severs was that increased data storage capacity.

-In regard to dependent claim 45, Hill et al, as shown above, teach communicating the web page to the client from a first server; storing the text file (style sheet) and the tagged image (<IMG> tag) on the first server; communicating the tagged image to the client from the server; and characterizing the color profile of the client device by interrogating said device from the server. Hill et al do not teach guiding the client through a color profiling process by delivering one or more color profiling web pages to the client. Bernard et al teach remotely characterizing the capabilities of the client output device by guiding the user through a color profiling process by delivering one or more color profiling web images (equivalent to web pages)(Remote Characterization: pp. 15-17). It would have been obvious to one of ordinary skill in the art at the time of the invention for Hill et al to have involved the user in the color profiling process as taught in Bernard et al, because Bernard et al teach that having optimal user display settings, which can best be determined by the user, would have increased user confidence for online purchases knowing that the view image was an accurate depiction of the product (pp. 6 & 7, lines 31-32 & 1-2).

Hill et al also do not teach wherein there were three servers. It would have been obvious to one of ordinary skill in the art at the time of the invention for the above mentioned processes of Hill et al performed on a single server to have been distributed over two or three servers,

because it was notoriously well known in the art that client/server networked architecture could be performed on more than one server wherein the advantage was in distributing the processing load required to process the client requests. An additional well-known benefit to the use of multiple severs was that increased data storage capacity.

Response to Arguments

9. Applicant's arguments filed 09/23/05 have been fully considered but they are not persuasive.

-In regard to claims 1-8, 15-23, 30-39, and 46, Applicant argues that there was no motivation to combine the Hill et al reference with the Gormish reference. As discussed above in the rejection of the independent claim 1, Hill et al clearly teach formulating a text file (style sheet)(Fig. 2: 214a-n) containing color commands (color properties)(column 8, lines 20-25) for presentation of objects (document content)(column 2, lines 28-32) within a web page (Fig. 2: 210) based on a color response (characteristics and capabilities)(column 9, lines 23-31) of a display device (Fig. 2: 200). Hill et al also teach wherein creating or selecting the text file was necessary so that displaying a web page on the display device fully utilized the capabilities of the display device based on devices color properties (column 4, lines 2-15). The Examiner agrees that the Hill et al reference does not teach wherein the color response included information relating an actual gamma of the display device. However, Gormish clearly teaches wherein determining the actual gamma of a display device provided the benefit of accurate display of images (column 1, lines 26-32: "For many applications....crucial for such applications").

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Hill et al teach a method for generating a text file based on the color response of a display device. The Gormish reference teaches determining an actual gamma of a display device and downloading the gamma to client system for gamma correction or storing the gamma at a server for future use with the client system. Gormish also teach the above cited motivation of providing color corrected images to be displayed on the display device based on the calculated actual gamma of the display device. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention for Hill et al to have included the actual gamma of the display device as taught in Gormish, so that client device rendering the web page could color correct the displayed images to produce accurate images based on the calculated gamma.

-In regard to claims 9-14, 24-29, and 40-45, Applicant argues that Bernard et al. does not consider formulation of a text file containing color commands for presentation of objects within a web page, wherein examples of web page objects include text, tables, and boxes. The Examiner respectfully disagrees and believes Bernard et al clearly teach creating a characterization file of a display device for displaying objects in a web page. The Examiner agrees that Bernard et al only teaches wherein the objects were tagged image files, but notes that the limitations of the claims do not require the objects of the web page to include text, tables, and

boxes. Please note the above rejection of dependent claims 47-49, wherein these limitations were newly added.

Applicant also argues that Bernard et al. provides no teaching that would have suggested modification of the layout generator described by Hill et al. to make use of color response characterization for a display device obtained by guiding a client through a color profiling process. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bernard et al teach that having optimal user display settings, which can best be determined by the user, would have increased user confidence for online purchases knowing that the viewed image was an accurate depiction of the product (pp. 6 & 7, lines 31-32 & 1-2).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US-2005/0073529	04-2005	GU, Xueming Henry
US-6,847,376	01-2005	Engeldrum et al.
US-6,714,211	03-2004	Yoshida et al.
US-6,122,002	09-2000	Ohara et al.
US-5,926,617	07-1999	Ohara et al.
US-6,686,953	02-2004	Holmes, Joseph
US-5,303,071	04-1994	Kakimura, Yoshiaki

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam L Basehoar whose telephone number is (571)-272-4121. The examiner can normally be reached on M-F: 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALB

William L. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER
12/11/2005